



## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FISCAL NOTE

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<b>Drafting Number:</b>	LLS 19-0371	<b>Date:</b>	March 5, 2019
<b>Prime Sponsors:</b>	Sen. Hisey; Sonnenberg Rep. Valdez D.; Catlin	<b>Bill Status:</b>	Senate Agriculture
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**Bill Topic:** SUNSET SEED POTATO GROWER REGULATION

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

**Sunset bill.** This bill continues the Colorado Seed Potato Act in the Department of Agriculture, which is scheduled to repeal on September 1, 2019. State fiscal impacts include both a potential revenue increase from a change to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2028.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

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## Summary of Legislation

This bill continues the Seed Potato Act in the Department of Agriculture (CDA), which is scheduled to repeal on September 1, 2019, and implements some of the recommendations from the Department of Regulatory Agencies sunset review. The changes to the act include:

- repealing the option to have an independent auditor perform a record review of potato growers;
- requiring the potato marketing order area committee for Area II pay all the costs of regulating seed potatoes; and
- repealing the \$2,500 fine limit for violations of the act.

## Background

Senate Bill 10-072 created the Colorado Seed Potato Act which requires potato growers who plant one or more acres of potatoes to use certified seed potatoes, with some exceptions. The bill also created the 9-member Seed Potato Advisory Committee. The Commissioner of Agriculture is responsible for administration and enforcement of the act and can set fees, conduct inspections, issue subpoenas, impose civil penalties, and sue in court. Growers are required to maintain certain records, which may be reviewed by a CDA employee or an independent auditor on a random basis. There are currently 20 certified seed potato growers, all of whom are located in potato marketing order Area II in the San Luis Valley. Due to the low cost of the program, no fees have been assessed and the program has been funded through civil fines.

Colorado State University is the certifying authority for Colorado grown seed potatoes. Seed potatoes grown outside of Colorado must be certified by the certifying authority of the state, territory, or country of origin.

### **Continuing Program Impacts**

The Department of Agriculture is expected to have revenue from civil fines and minimal expenditures to administer the seed potato program in FY 2019-20 under current law. If this bill is enacted, the program has the potential for a minimal increase in revenue and ongoing minimal expenditures starting in FY 2020-21. The continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2020, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2020-21. The change to the program that may increase revenue is discussed in the State Revenue section below.

### **State Revenue**

By removing the \$2,500 fine limit on violations, the bill may increase revenue to the Seed Potato Cash Fund. Because fines are assessed intermittently and to a relatively small number of growers, the increase in revenue is expected to be minimal.

### **Effective Date**

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

### **State and Local Government Contacts**

Agriculture